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DISTRICT COURT

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WASHINGTON COUNTY

BY Cps

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FIFTH JUDICIAL DISTRICT COURT
WASHINGTON COUNTY, STATE OF UTAH

STATE OF UTAH,
Plaintiff,

vs.

WARREN STEED JEFFS,
Defendant.

MEMORANDUM OPPOSING MOTION TO
ARREST JUDGMENT

Criminal No. 061500526

Judge James L. Shumate

The Court should deny the defendant's Motion to Arrest Judgment because the jury was presented with ample evidence on each and every element of the crimes charged. Moreover, the defendant failed to meet his threshold burden to marshal all the evidence supporting the jury's verdict. Rather, the defendant "merely recites his own version of the facts" that both the Jury and the Court had previously considered and rejected.

**THE JURY'S VERDICT WAS SUPPORTED BY EVIDENCE BEYOND A
REASONABLE DOUBT ON EACH ELEMENT OF THE CRIMES CHARGED**

**1. The Court Should Deny the Motion Because the Defendant Failed to Marshall the
Evidence in Support of the Jury's Verdict**

According to the Utah Supreme Court, "a motion for a directed verdict, a motion for judgment notwithstanding the verdict, and a motion for arrest of judgment all hinge on the same

basic standard, i.e., whether, viewing the evidence in the light most favorable to the prosecution, a reasonable jury could find the defendant guilty beyond a reasonable doubt.” *State v. Clark*, 2001 UT 9, ¶ 13 n. 2.

“The burden is heavy on a defendant challenging the sufficiency of the evidence. Defendant ‘must first marshal all the evidence supporting the jury’s verdict and then demonstrate how this evidence, even viewed in the most favorable light, is insufficient to support the verdict.’” *State v. Shepherd*, 1999 UT App 305 ¶ 25 (citations omitted).

The marshalling requirement applies at both the trial court and appellate court level. In fact, since a sufficiency of the evidence claim can be raised on appeal, the appellate courts recognize that “appellate review can just as easily be conducted on the existing trial record on direct appeals from judgments of conviction, without first having to exhaust the limited time and resources of the trial courts...” *Id.* ¶ 18 (citation omitted). According to the court of appeals:

Assuming the scope of review of sufficiency claims is essentially the same in both the trial and appellate courts, should the trial court be required to conduct lengthy post-trial proceedings including a transcript review to preserve a sufficiency claim for appeal? *We think not.*

Id. (emphasis added).

When a defendant fails to marshal the evidence in support of the jury’s verdict and “merely recites his own version of the facts,” the defendant’s argument is considered no further. *Shepherd*, at ¶ 25.

In this particular case, the defendant acknowledges his burden and claims to marshal the evidence, but in fact omits much of the evidence. For example, among the omissions are the following:

- Testimony regarding defendant's total control over every aspect of his followers' lives after his father's strokes;
- Testimony that the defendant intended and knew that marriage involved sexual intercourse;
- Testimony that Elisa Wall told Warren Jeffs that she was only 14 years old and did not want to marry her cousin;
- Testimony that Elisa Wall through her conduct made clear to Warren Jeffs that she objected to the marriage;
- Testimony regarding the marriage ceremony itself and the dramatic and painful pauses as Warren Jeffs instructed Elisa to go forward;
- Testimony from Rebecca Musser regarding her conversations with Warren Jeffs about wives' duties to submit to sexual activity generally and testimony regarding Elisa Wall's situation specifically;
- Teachings and statements by Warren Jeffs to Alta Academy Children regarding marital duties and responsibilities;
- Allen Steed's testimony and admissions on both direct and cross-examination;
- and

- Testimony from the defendant's own followers regarding the purpose of marriage and the power and control of Warren Jeffs.

These are just a few of the omissions from defendant's purported effort to "marshal" the evidence. Moreover, rather than examine the evidence "in the light most favorable to the verdict," the defendant minimizes the evidence, argues facts not in evidence, and draws unfavorable inferences. Hence, the defendant merely reargues points that have previously been rejected by the Court and the Jury. As such, the Court should deny the motion to arrest judgment.

II. The Jury's Verdict Is Supported By Ample Evidence On Both Counts

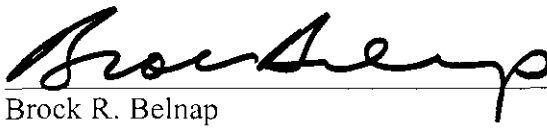
At the close of the State's case, the Court denied a motion for a directed verdict because the State had submitted evidence sufficient to send the case to the jury on both counts. The State's case only got stronger thereafter with the testimony of Allen Steed, members of the defendant's community, and mid-wife Jane Blackmore.

Additionally, contrary to the defendant's assertion that the case relies entirely on circumstantial evidence, the case was based on direct testimony by Elisa Wall and Allen Steed about their interactions together and with Warren Jeffs. Hence, the defendant's entire circumstantial evidence analysis under *State v. Workman* is inapplicable.

CONCLUSION

Because the defendant has failed to show how the evidence is insufficient when viewed in the light most favorable to the verdict, the Court should deny his motion to arrest the judgment.

Respectfully submitted this 16th day of November, 2007.


Brock R. Belnap
Washington County Attorney

CERTIFICATE OF DELIVERY

I hereby certify that, on the 16 day of November, 2007, I caused a true and correct copy of the foregoing MEMORANDUM OPPOSING MOTION TO ARREST JUDGMENT to be served as follows:

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